



Attachment A - Bivens Complaint form

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

Lewis Moore III

55967-056

(Enter above the full name of the plaintiff
or plaintiffs in this action)

(Inmate Reg. # of each Plaintiff)

v.

CIVIL ACTION NO. 1:20-cv-00575
(Number to be assigned by Court)

B Rife

W Hatcher

B Richard

FCI McDowell

(Enter above the full name of the defendant
or defendants in this action)

Defendant(s).

COMPLAINT

I. Parties

A. Name of Plaintiff:

Lewis Moore III

Inmate No.:

55967-056

Address:

P.O. Box 1009

Welch, W.V. 24801

- B. Additional Plaintiff(s) (provide the same information for each plaintiff as listed in Item A above).

Name of Plaintiff: _____

Inmate No.: _____

Address: _____

Name of Plaintiff: _____

Inmate No.: _____

Address: _____

- C. Name of Defendant: B. Rife

Position: Food Service Supervisor

Place of Employment: FCI McDowell

Welch, W.V. 24801

- D. Additional Defendant(s) (provide the same information for each defendant as listed in Item C above):

Name of Defendant: W. Hacker

Position: Head of Safety

Place of Employment: FCI McDowell

Welch, W.V. 24801

Name of Defendant: B. Richard

Position: Former Warden

Place of Employment: FCI McDowell

Welch, W.V. 24801

- B. Additional Plaintiff(s) (provide the same information for each plaintiff as listed in Item A above).

Name of Plaintiff: _____

Inmate No.: _____

Address: _____

Name of Plaintiff: _____

Inmate No.: _____

Address: _____

- C. Name of Defendant: Federal Correctional Institution McDowell

Position: Prison

Place of Employment: Welch, W.V. 24801

- D. Additional Defendant(s) (provide the same information for each defendant as listed in Item C above):

Name of Defendant: _____

Position: _____

Place of Employment: _____

Name of Defendant: _____

Position: _____

Place of Employment: _____

II. Place of Present Confinement

Name of Prison/Institution: FCI McDowell

- A. Is this where the events concerning your complaint took place?

Yes ✓ No

If you answered “no,” where did the events occur? _____

- B. Is there a prisoner grievance procedure in this institution?

Yes ☒ No ☐

- C. Did you present the facts relating to your complaint in the prisoner grievance procedure? Yes ✓ No

If you answered “no,” explain why not: _____

If you answered "yes," what was the result at level one, level two and level three (attach grievances and responses): All grievances were rejected

for basically the same reason. Time

III. Previous Lawsuits

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise related to your imprisonments?

Yes No ☒

- B. If your answer to A is “yes,” describe the lawsuit in the space below. If there is more than one lawsuit, describe the additional lawsuits on another piece of paper using the same outline.

1. Parties to the previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court (if federal court, name the district; if state court, name the county);

3. Docket Number: _____

4. Name of judge to whom case was assigned: _____

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

6. Approximate date of filing lawsuit: _____

7. Approximate date of disposition: _____

IV. Statement of Claim

State here, as briefly as possible, the facts of your case. Describe what each defendant did to violate your constitutional rights. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets of paper if necessary.)

On 3-11-18 At or around 6:10 pm in Food Service At FCI McDowell, Officer B. Rife neglectfully locked me in a cooler for more than an hour and a half withstanding a temperature near freezing. The officer did this on purpose as a cruel joke and it is captured on film. This puts most of the blame on B. Rife.

However the blame is not his alone. In every cooler or freezer there is an emergency exit. The one in this cooler was broken. Officer W. Thacker was the head of safety at the time. It is his job to make sure all of the

(2)

emergency exits are functional. All of the exits were replaced within a week of this which was too late.

Ms. B Richard was the warden at the time and responsible for the overall functioning of the prison.

FCI McDowell itself particularly Food Service for being an unsafe work environment.

I was able to break down the door by running into it with my shoulder. I injured my shoulder and neck in the process of knocking the door down.

Due to the severity of this issue and the backlash I feared I would receive for filing this against the people named above, I took my time to do my "Due Diligence" for the severe safety hazards and powerful people I hold accountable for this incident.

My biggest fear was retaliation from Rife. He is an intimidating figure, a person that uses racial slurs and has been known to abuse his power. My fear was warranted because after I filed on him and my grievance process was complete, Rife harassed me by calling me a snitch and talking about me to other inmates. On Dec 5th 2019 while I was eating breakfast I was approached by Rife and told to leave the kitchen because he was filling in as my supervisor for the day. He then went to the section behind my section and told some gang members that I was a snitch with the intent of having someone to cause me harm. On Dec 9th 2019 I stated that I feared for my life and was placed in protective custody. An investigation was hatched on this subject.

It is now Aug 27th 2020 and I've been in the Special

(2)

(3)

Housing Unit since Dec 9th 2019. I AM NOW ON QUARANTINE AWAITING TRANSFER AND I've been given a hard time about collecting my documents concerning this matter. I wrote to the Regional Office to try to get copies of All my filings AND NEVER received a response. I also asked LT Saunders about obtaining copies for me and he said he couldn't because they all got rejected. The copies that I have are missing the response to my BP-11 and it's in my property. As soon as I get to my next prison I will send it and a copy of the original forms.

All of my grievances were rejected basically for the same reason - not being filed on time. I feel this is a serious situation in which I feared for my safety and I feared retaliation because after being around Rife for a while I got to know his character.

Ever since, I've had dreams about being locked in the cooler and shared them with the psychologist. I told him that since I was in segregation the dreams were more intense. This was Dr. Whited in May or June 2020. I fear this is an experience that will always haunt me mentally and emotionally.

Officer Estep is the officer that came to get me from the kitchen. LT. Saunders was the LT. that same night.

LT. Moore was the SIA LT. that was the head of the investigation for when I was placed in protective custody.

LT. G Reut was the LT. that placed me in protective custody.

There is video evidence of Rife locking me in the cooler and of me breaking out.

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V. Relief

State briefly and exactly what you want the Court to do for you. Make no legal arguments.
Cite no cases or statutes.

I would like the court to find the officers AND prison at fault. I would like to be awarded twenty-five million dollars for my troubles AND future treatment. This case should be an example to other officers AND prisons.

Signed this 27th day of August, 20 20.

Lari Mauer

Signature of Plaintiff or Plaintiffs

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 27, 2020
(Date)

Lari Mauer
Signature of Plaintiff

Lewis Moore III 55767-056
Federal Correctional Institution McDowell
P.O. Box 1009
Welch, W.V. 24801



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24701

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24801
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Legal
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FY:

BC 8/27/20

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